

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

*In re* Ex Parte Application of

RICHARD RANDALL GREEN,

Applicant,

For an Order Pursuant to 28 U.S.C. §1782  
Granting Leave to Obtain Discovery From  
DEUTSCHE BANK TRUST COMPANY  
AMERICAS and CITIBANK, NATIONAL  
ASSOCIATION For Use In Foreign  
Proceedings

Case No. \_\_\_\_\_

**EX PARTE APPLICATION FOR JUDICIAL ASSISTANCE  
PURSUANT TO 28 U.S.C. §1782**

Richard Randall Green (“Applicant”), by and through his undersigned counsel, makes the following application pursuant to 28 U.S.C. §1782 (“Section 1782”) for judicial assistance to conduct discovery of respondents Deutsche Bank Trust Company Americas (“Deutsche Bank Americas”) and Citibank, National Association (“Citibank”) for use in a foreign judicial proceeding. The foreign judicial proceeding is entitled *Newsat Limited (In Liquidation) (Receivers and Managers Appointed) & Anor v. Adrian Maxwell Ballintine & Anor*, File No. VID51/2017, currently pending in the Federal Court of Australia (the “Australian Litigation”). Applicant seeks this discovery for use in the Australian Litigation wherein Applicant is a defendant.

This application is supported by the Memorandum of Law, the Declaration of Bryan Michael France, and the Declaration of Eric Roman, filed concurrently herewith. The proposed documents subpoenas are attached to this application as Exhibits B and C, respectively.

As discussed in greater detail in the Memorandum of Law, Applicant is a former non-

executive director and Chairman of NewSat Limited (in liquidation) (receivers and managers appointed) (“NewSat”) and Jabiru Satellite Limited (in liquidation) (receivers and managers appointed) (“Jabiru”). He is currently a defendant in a judicial proceeding that was brought against him by the receivers and managers of NewSat and Jabiru (the “Plaintiff Companies”), who allege, among other things, that Applicant breached his fiduciary duty as a director when he “allowed” the Plaintiff Companies to enter into certain financing agreements with various secured lenders – now, secured creditors of the Plaintiff Companies – for the purpose of funding the construction and launch of a commercial satellite.

As discussed in greater detail in the memorandum of law, in support of his defenses to the action filed against him in Australia, Applicant seeks narrowly-tailored document discovery from Deutsche Bank Americas and Citibank (two of the Plaintiff Companies’ secured creditors under the above-described financial agreements) concerning (a) the considerations that these secured creditors undertook in agreeing to provide the Plaintiff Companies with financing under the financing agreements; and (b) these secured creditors’ ongoing considerations in agreeing to provide financing to the Plaintiff Companies, including the granting of waivers to the Plaintiff Companies under the financing agreements.

As discussed in greater detail in the memorandum of law, Applicant’s Section 1782 application satisfies the three statutory requirements. First it is being brought in “the district in which [the] person resides or is found,” 28 U.S.C. § 1782(a), because (i) Deutsche Bank Americas has its headquarters in Manhattan, and (ii) Citibank carries on substantial, continuous, and systematic business in Manhattan. Second, Applicant seeks the discovery for “use in a proceeding in a foreign . . . tribunal,” *id.*, namely the Federal Court of Australia at Victoria. Third, Applicant, as a litigant in the Australian proceeding, qualifies as an “interested person.”

*See id.*

Applicant has not made any prior request for judicial assistance under Section 1782 to take discovery from Deutsche Bank Americas or Citibank to this Court or any other Court.

WHEREFORE, Applicant respectfully requests that that this Court enter an order (the “Proposed Order”) substantially in the form of Exhibit A hereto:

1. Granting this application;
2. Authorizing counsel for Applicant to issue, sign and serve upon Deutsche Bank Americas a subpoena substantially in the form of the subpoena attached as Exhibit B hereto;
3. Authorizing counsel for Applicant to issue, sign and serve upon Citibank a subpoena substantially in the form of the subpoena attached as Exhibit C hereto; and
4. Directing Deutsche Bank Americas and Citibank to (i) serve responses and objections to their respective subpoenas by no later than the thirtieth (30th) calendar day following the entry of the Proposed Order, and (ii) produce all non-privileged documents responsive to the document requests for which no objection has been raised on a rolling basis beginning no later than the thirtieth (30th) calendar day following the entry of the Proposed Order, with such production to be completed no later than the seventy-fifth (75th) calendar day following the entry of the Proposed Order.

Dated: February 26, 2018

Respectfully submitted,

By: s/ Eric Roman

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